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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

10,647

**FILE:** B-193442

**DATE:** July 2, 1979

**MATTER OF:** Donald E. Ryder - Transfer While on Home Leave

**DIGEST:** Interior employee who satisfactorily completed an overseas tour of duty returned to the United States for home leave. He arranged transfer to AID while on home leave, effective on termination of leave. The salary charge to the Interior appropriation for the period of home leave was proper since the employee earned it as an Interior employee and it agreed to the effective date of the transfer.

By letter dated November 3, 1978, the Deputy Assistant Secretary - Policy, Budget and Administration, Department of the Interior, requested our decision as to which agency's appropriation is to be charged with the salary of an employee on home leave when the employee decides to transfer to another agency effective at the completion of his home leave. The Deputy Assistant Secretary reports the factual situation as follows:

"Mr. Donald E. Ryder, a GS-13 supervisory auditor, was employed by the Office of the U.S. Government Comptroller for Guam/TTPI/NMI, Department of the Interior. Upon completion of his two year agreement for overseas duty at Guam on December 1, 1977, he became eligible for home leave. He departed Guam on June 30, 1978 and after leave-free travel time, began his home leave on July 3, 1978.

"On or about July 17, 1978, the Agency for International Development (AID) contacted the Department of the Interior and requested that Mr. Ryder be dropped from Interior's rolls on August 13, 1978 so that AID could employ him effective August 14. Because the employee would not be returning to work for Interior, our office requested that the transfer date be set prior to August 14. However, the AID official indicated that it is not AID policy to effect such a transfer until home leave was completed. Interior did not wish to cause a break in the

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employee's service and compensation or jeopardize his employment opportunities with AID. Interior, therefore, reluctantly agreed to the August 14 transfer date which AID was requesting."

It is Interior's contention that once AID officially informed Interior of its plan to hire Mr. Ryder, Interior no longer had an obligation to carry him on home leave for the following reasons:

- "1. a condition for approving home leave is the employee's return to an overseas post, and
- "2. the purpose of home leave is to prepare an employee for further service abroad through re-acculturation to U.S. life and thought.

"With respect to #1 above, on or about July 17, 1978, the condition for permitting home leave use could no longer be based on future service with Interior. In effect AID had then set the condition for use of home leave since upon assuming employment with AID, he was to be assigned to Pakistan. Therefore, we contend that Mr. Ryder's subsequent use of home leave and the attendant salary costs should have been AID's responsibility.

"With respect to #2 above, AID rather than Interior is the agency that accrued the benefit from the employee's re-acculturation to the U.S. Reference is made to Comptroller General decision 44 CG 767 (B-144095), June 2, 1965. It appears to be the intent of that decision that the gaining agency bear the expenses from which it will benefit. \* \* \*

In our decision 44 Comp. Gen. 767 (1965), we held as follows:

"\* \* \* Thus, if the employee has signed a renewal agreement for overseas duty with a different Government agency his old agency is not receiving any benefit from assuming his traveling expenses back to an overseas post. While the law is silent as to which agency must bear the expense of home leave travel and transportation under such circumstances, our view is that the law permits the expenses to be divided as suggested in the Under Secretary's letter, that is that the agency from which the employee transfers bear the expense of travel of the employee and transportation of his family to the actual place of residence in the United States, and that the agency to which the employee transfers after completion of a period of home leave pay such expenses from the actual place of residence in the United States to his new overseas duty station with that agency. \* \* \*

We invited AID to comment upon the position of the Department of the Interior as set forth above. The Assistant General Counsel for Employee and Public Affairs, AID, replied by affirming AID's position that it was proper for the Department of the Interior to pay Mr. Ryder's salary during his home leave in the United States for the following reasons:

"(1) A.I.D. has paid all of the personal travel and transportation of household effects for the employee from his place of residence to his new overseas assignment;

"(2) The employee earned his home leave while serving with the Interior Department (to which he has re-employment rights); and

"(3) A.I.D. should not pay the salary of the employee until his service with A.I.D. began on August 13, 1978.

"We believe this interpretation is entirely consistent with the decision of Comptroller General in 44 Comp. Gen. 767. That opinion held that it was proper for

the agency 'to which the employee transfers after completion of a home leave pay such expenses [of travel and transportation].'  
(Emphasis added.)"

Our decision in 44 Comp. Gen. 767 (1965), referred to by both agencies, did not specifically consider the question of which agency's appropriation would be chargeable with the salary of an employee while on home leave after having accepted a position with a different agency to which he will report immediately upon the completion of his home leave.

Under the provisions of 5 U.S.C. § 6305 (1976), a Federal employee generally is entitled to home leave after serving a tour of duty overseas for the required period. The specific requirements laid down for the granting of home leave are that the employee must have completed a basic service period of 24 continuous months abroad and that it is contemplated that he will serve another tour of duty abroad. 52 Comp. Gen. 860 (1973); 35 id. 655 (1956); B-147031, February 5, 1962. Also, see 5 C.F.R. § 630.601 et seq.

While the law and regulations are silent as to which agency must bear the expense of the employee's salary while on home leave, we concur generally with the views expressed by the AID Assistant General Counsel. Mr. Ryder completed an agreed period of service overseas of at least 24 months with the Department of the Interior and earned his home leave by virtue of such service. Since his home leave was calculated on the basis of the number of months of service provided to Interior, which received the benefit of that service, it was proper for that Department to pay the salary expense covering the period of home leave from its appropriations. However, while AID had no control over the granting of home leave in this case and it derived none of the benefit from the service rendered in earning the leave, we do not believe it would have been inappropriate to have charged its appropriations with the salary of Mr. Ryder while on home leave if an earlier transfer date had been set. This is so since home leave which is not used prior to transfer may be transferred to the acquiring agency and the effective date of a transfer is the date mutually agreed upon by the agencies involved. 5 C.F.R. § 630.607 and Federal Personnel Manual, ch. 315, § 5-4 (1969 ed. July 1969).

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In the instant case Interior agreed to an effective date of transfer, although reluctantly, and the salary charge to its appropriation may not be changed.

*R. Z. Keller*  
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of the United States